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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

Written statement submitted by the Commission of the Churches on International Affairs (World Council of Churches), a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[30 November 1990]

Human Rights and International Financial Institutions

1. Member churches of the World Council of Churches have for a long time been concerned about the adverse consequences for basic human rights of certain policies and programmes of international financial institutions (IFIs). (This statement includes, for consideration, the International Monetary Fund (IMF) and the World Bank though comments would apply equally to regional financial institutions such as the Inter-American, Asian and African Development Banks.) We believe that the time has come for United Nations

human rights bodies to seriously explore ways and means by which human rights codified in the covenants on Economic and Social Rights and Civil and Political Rights can be recognized and incorporated into decision-making by IFIs. In putting forward this idea the World Council of Churches reaffirms its long held position that the rights elaborated in the two covenants are indivisible and must be taken together in any policy-setting, programme planning, and evaluation activities. This point was elaborated in the WCC oral statement on debt and human rights to the forty-fifth session of the Commission on Human Rights.

2. International human rights standards must be taken into account by IFIs if long-term practical human rights protection and promotion are to be ensured. Furthermore, it can be argued that the application of human rights criteria will increase not only the fairness but also the effectiveness of IFI policies and programmes.

3. The actions of IFIs affect human rights conditions in borrower countries in a variety of ways. Yet only in certain instances of gross systematic human rights abuse have human rights been given any consideration when loans and investments are being made. There is therefore a need to institutionalize the systematic review of human rights considerations within IFIs. One means to accomplish this would be the establishment of human rights offices within IFIs. These offices could review policies, programmes and projects for their likely effect on human rights observance. They could also advise on the extent to which detrimental impacts on human rights might effect the overall success of a proposed initiative, as well as on the reciprocal relationship between human rights observance and economic development. This kind of review is consistent with the mandates and objectives of the IFIs, would enhance their development work and would promote the practical implementation of the Covenant on Economic, Social, Cultural Rights and the Covenant on Civil and Political Rights.

4. The IFIs are designed to assist economic growth using financial structures and discipline similar to that of private financial institutions. However, IFIs have a wider purpose and responsibility to overcome market deficiences by allocating capital to enhance structural development and overall economic and social welfare. Thus, the degree of concessionality present in loans, the emphasis on economic development goals rather than simply the financial rate of return of projects, and the technical assistance made available to borrowers, underscore the wider role of IFIs.

5. Consistent with this purpose, the IFIs have been supportive of economic development as a broadly defined right, recognizing that sustainable development does not occur in a vacuum separate from the many social, cultural and other factors existing in the countries in which the programmes operate. The decision to lend money involves a wide variety of considerations, including a country's rate of growth, natural resources, political stability and others. The IFIs also have properly focused on basic needs; fostering projects which have as a primary goal not simply narrowly defined economic development. The Women in Development initiative by the World Bank is noteworthy in this context.

6. Thus, IFI activities recognize that in approaching the difficult task of economic development, the conditions under which citizens live are relevant, and often critical, to the ultimate success and sustainability of a particular programme. This is also true for human rights. According to the General Counsel to the World Bank:

> Civil rights are also basic to human development and happiness. No balanced development can be achieved, in any view, without the realization of a minimum degree of all human rights, material or otherwise, in an environment that allows each people to preserve their culture while continuously improving their living standards. This suggests that the [World] Bank should be concerned with the broad effect of its loans on the welfare of the beneficiary individuals. Human Rights violations in specific cases also have broader implications related to the country's stability and prospective creditworthiness or to its ability to supervise them, which obviously are factors that the Bank must take into account to the extent they prove relevant in the circumstances of a specific case. 1/

7. It is true that the staff and directors of IFIs are instructed to base decisions systematically on economic considerations. Nonetheless, the proposal to take into account systematically human rights in the IFIs is consistent with this and other legal criteria governing activities of these institutions. 2/ The consideration of human rights factors as part of the pre-project review process is not only within IFIs' respective mandates but helpful in achieving their goals. In making economic and financial judgements as to the creditworthiness of the borrower, the general stability of the country, the likelihood of repayment of the loan, and the merits and ultimate success or sustainability of the proposed project, human rights conditions need to be assessed and weighed.

8. Human rights considerations should therefore be institutionalized within each of the IFIs, in a manner analogous to, for example, environmental impact analyses; with the results of the human rights review considered in a broader context of other lending objectives. The manner in which IFI staff would incorporate the results of a human rights review into the overall IFI decision-making process presents difficult issues. However, in the absence of an organizational capability to collect and analyse relevant information, and its human rights implications, no informed decisions can be made.

9. In the light of the concerns raised in this statement we welcome the excellent reports of the Special Rapporteur, Mr. Danilo Türk; especially those parts of the reports which address the activities of IFIs. We trust that the issues raised in his reports, plus those raised in this paper and others will encourage further consideration and action on human rights and IFIs by United Nations human rights bodies.

Notes

1/ Ibrahim F.I. Shihata, Vice President and General Counsel of the World Bank, in "The World Bank and Human Rights", The Bank's World, at 15 February 1988.

2/ Section 10 of Article 4 of the World Bank Articles of Agreement states: "The Bank and its officers shall not interfere in the political affairs of any member, nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions and these considerations shall be weighed impartially in order to achieve the purposes stated in Article 1." Similiar clauses are included in other IFI charters, e.g., Inter-American Development Bank, Article V, Section 6. However, the new European Bank for Reconstruction and Development (EBRD) departs from this model. For example, in the preamble to EBRD Articles of Agreement, the contracting parties welcome "the intent of the Central and Eastern European countries to further the practical implementation of multiparty democracy, strengthening democratic institutions, the rule of law and respect for human rights and their willingness to implement reforms in order to evolve towards market-oriented economies."